

**STATE OF MICHIGAN**  
**DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**  
**Before the Director of the Department of Insurance and Financial Services**

**In the matter of:**

**The Recovery Project, LLC**

**Petitioner**

**File No. 21-1764**

**v**

**MemberSelect Insurance Company**

**Respondent**

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**Issued and entered  
this 19<sup>th</sup> day of January 2022  
by Sarah Wohlford  
Special Deputy Director**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On November 22, 2021, The Recovery Project, LLC (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of MemberSelect Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Respondent issued the Petitioner a written notice of the Respondent's determinations under R 500.64(1) on August 23, 2021, and November 8, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on November 23, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 1, 2021, and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 15, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on December 28, 2021.

## II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy treatment rendered to the injured person on 13 dates of service at issue<sup>1</sup> under Current Procedural Terminology (CPT) codes 97110, 97112, and 97530, which are described as: therapeutic procedure, 1 or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion and flexibility; therapeutic procedure, 1 or more areas, each 15 minutes; neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and/or proprioception for sitting and/or standing activities; and therapeutic activities, direct (one-on-one) patient contact (use of dynamic activities to improve functional performance), each 15 minutes; respectively.

With its appeal request, the Petitioner identified the following diagnoses for the injured person in relation to a motor vehicle accident in April of 2014: quadriplegia, C5-C7, incomplete; other abnormalities of gait and mobility; other lack of coordination; and generalized muscle weakness. The Petitioner documented in its medical records that treatment would focus on continuing flexibility due to the presence of spasticity and hypertonicity, which places the injured person at risk for muscle injury. Petitioner's progress notes further reflect that the injured person requires therapy to maintain current loss of function, reduce risk of loss of skin integrity, and to avoid secondary complications resulting from the injured person's spinal cord injury.

The Petitioner's request for an appeal further stated:

Without continued physical therapy, [the injured person would have an increased] risk of depression, decline of functional ADLS/transfers and bed mobility skills, decline in overall strength and flexibility, joint contracture, upper respiratory infection, cardiac disease, osteoporosis and bone fractures, wounds, dysreflexia events which can cause death and an inability to live at home, and hospitalization due to the secondary complications that can arise from a C6-7 spinal cord injury.

In its reply, the Respondent referenced the Official Disability Guidelines (ODG) and American College of Occupational and Environmental (ACOEM) recommendations and noted that the injured person had been treated in the past for over 50 sessions of therapy intermittently, twice a week, since May 9, 2018 for diagnoses of quadriplegia, C5-C7 incomplete; other abnormalities of gait and mobility, lack of coordination, and generalized muscle weakness for the motor vehicle accident of April 25, 2014. The Respondent further noted that documentation indicates an improvement in joint integrity, sitting balance and strength, and that ample opportunity has been provided for establishing and reinforcing a home conditioning exercise program.

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<sup>1</sup> The dates of service at issue in this appeal are July 2, 2021, July 9, 2021, July 12, 2021, July 16, 2021, July 19, 2021, July 23, 2021, July 26, 2021, July 30, 2021, August 9, 2021, August 11, 2021, August 18, 2021, August 20, 2021, and August 25, 2021.

### III. ANALYSIS

#### Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment or overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, the at-issue treatment was not overutilized in frequency and duration and that the previous adverse determination should be overturned.

The IRO reviewer is a licensed and practicing physical therapist who is knowledgeable with respect to the medical conditions and type of treatment at issue in this appeal. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer primarily relied on the American Physical Therapy Association (APTA) Evidence-Based Scientific Exercise Guidelines for Adults with Spinal Cord Injury in reaching its determination.

The IRO reviewer opined that:

According to the APTA and current evidence-based medical literature, patients with spinal cord injury's [sic] require prolonged skilled physical therapy to maintain function and prevent deterioration. While home programs are acceptable in some cases, spinal cord injury patients require skilled health professionals for a longer period to ensure safe and effective care. Continued moderate exercise and stretching for [the injured person] is essential to preserve [the injured person's] current functional status and overall health.

The IRO reviewer recommended that the Director reverse the Respondent's determination that the physical therapy treatment provided to the injured person on the dates of service at issue was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

### IV. ORDER

The Director reverses the Respondent's determinations dated August 23, 2021, and November 8, 2021.

The Petitioner is entitled to reimbursement in the amount payable under MCL 500.3157 for the treatment on the dates of service discussed herein, and to interest on any overdue payments as set forth in

Section 3142 of the Code, MCL 500.3142. R 500.65(6). The Respondent shall, within 21 days of this order, submit proof that it has complied with this order.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox  
Director  
For the Director:

X *Sarah Wohlford*

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Sarah Wohlford  
Special Deputy Director  
Signed by: Sarah Wohlford